

### **REMARKS**

The Office Action mailed 06 June 2007 has been received and reviewed. Each of claims 1-66, 80-120, and 135-148 stands rejected. Claims 1, 34, 80, 93, 107, and 135 are amended and claims 22 and 55 are canceled. Reconsideration of the present application in view of the following remarks and above amendments is respectfully requested.

### **Objection**

The specification is objected to as failing to provide proper antecedent basis for the subject matter of claims 80-92 and 135-148.

Applicant respectfully points the examiner to Applicant's specification, at paragraphs [0021]-[0023] which describe the use of databases, hard drives, and optical recordable media when delivering content to a subscriber. As understood by an artisan of ordinary skill, computer readable media comprise floppy disks, hard drives, databases, etc. See *In re Beauregard*, 53 F.3d 1583 (Fed. Cir. 1995). Moreover, Applicant respectfully notes terms from the claims and description need not be in *ipsis verbis*. See MPEP § 2163(II)(A)(3)(a).

To expedite prosecution, Applicant submits amendments to Applicant's original specification, which recited computer readable medium at least in claims 80-92, to expressly recite "computer readable medium" in paragraph [0007]. Accordingly, Applicant believes Applicant's original and amended specifications provide adequate support for claims 80-92 and 135-148 under the relevant legal precedent. For at least the above reasons, Applicant respectfully requests withdrawal of the objection to the specification.

**Rejections based on 35 U.S.C. § 103(a)**

A.) Applicable Authority

Title 35 U.S.C. § 103(a) declares, a patent shall not issue when “the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.” The Supreme Court in *Graham v. John Deere* counseled that an obviousness determination is made by identifying: the scope and content of the prior art; the level of ordinary skill in the prior art; the differences between the claimed invention and prior art references; and secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1 (1966). To support a finding of obviousness, the initial burden is on the Office to apply the framework outlined in *Graham* and to provide some reason, or suggestions or motivations found either in the prior art references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the prior art reference or to combine prior art reference teachings to produce the claimed invention. See *Application of Bergel*, 292 F. 2d 955, 956-957 (CCPA 1961). Recently, the Supreme Court elaborated, at pages 13-14 of the *KSR* opinion, it will be necessary for [the Office] to look at interrelated teachings of multiple [prior art references]; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by [one of] ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the [patent application].” *KSR v. Teleflex*, No. 04-1350, 550 U.S. \_\_\_\_ (2007).

A.) Obviousness Rejections Based on U.S. Patent Publication No. 2003/0204856 (Buxton) in view of U.S. Patent Publication No. 2002/0129375 (“Kim”).

Claims 1-21, 25-54, 58-66 and 80-92 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Buxton in view of Kim.

Independent claims 1, 34, and 80 are amended to overcome this rejection and to place the application in condition for allowance.

Independent claims 1, 34, and 80 are currently amended to include, among other things, “wherein the distributable content is configured to expire after a predetermined time.” Applicant respectfully submits that the prior art, including Buxton and Kim, fails to disclose all elements of claims 1, 34, and 80.

Unlike the prior art, the invention of claims 1, 34, and 80 requires distributable content that is configured to expire. Buxton fails to disclose the currently amended limitation of claims 1, 34, and 80. Moreover, Kim fails to disclose distributable content that is configured to expire. Nothing in Buxton and Kim, singularly and in combination, teaches or suggests distributable content that is configured to expire. Accordingly, for at least the above reason, the obviousness rejection of independent claims 1, 34, and 80 should be withdrawn.

U.S. Patent Publication No. 2003/0131075 published by Bear fails to remedy the deficiencies of Buxton and Kim. Bear, at paragraph [0038], teaches a service provisioning manager (SPM) that generates a script defining a particular instantiation of a service or service plan. Service parameters are defined within each of the service plans via a GUI of the SPM. In Bear, a particular service plan might specify that the video-on-demand service provides a movie for a 24-hour period. Therefore, the SPM allows an operator to process executable scripts for specifying service parameters corresponding to each service plan.

Nothing in Bear teaches or suggests configuring the distributable content with an expiration period. Unlike Buxton, Kim, and Bear, singularly and in combination, independent claims 1, 34, and 80 require distributable content configured with the expiration period, which expires when stored beyond the expiration period without further intervention. In contrast to the invention of claims 1, 34, and 80, Bear requires the service providing manger to define the duration and to enforce the duration. The invention of claims 1, 34, and 80 allow the distributable content itself to enforce the expiration period. Having the enforcement of the expiration period performed by the distributable content and not the service plan reduces logic and messaging overhead associated with the service manger. While Bear does teach preventing access to content, the manner in which the distributable content of claims 1, 34, and 80 is restricted is distinct and nonobvious in view of Buxton, Kim, and Bear. Accordingly, Applicant respectfully submits, for at least the above reasons, Buxton, Kim, and Bear fail to teach or suggest the invention of claims 1, 34, and 80.

Dependent claims 2-21, 23-33, 35-54, 56-66 and 81-92 further define novel features of the invention of claims 1, 34 and 80 and each depend, either directly or indirectly, from independent claims 1, 34 and 80. Accordingly, for at least the reasons set forth above with respect to independent claims 1, 34 and 80, dependent claims 2-21, 23-33, 35-54, 56-66 and 81-92 are believed to be in condition for allowance by virtue of their dependency. See 37 C.F.R. 1.75(c). As such, withdrawal of the obviousness rejection of dependent claims 2-21, 23-33, 35-54, 56-66 and 81-92 is respectfully requested.

B.) Obviousness Rejections Based on Buxton, Kim and U.S. Patent Publication No. 2003/0131075 (Bear).

Claims 22 and 55 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Buxton, Kim, and Bear.

Claims 22 and 55 are canceled. As such, withdrawal of the obviousness rejection of dependent claims 22 and 55 is respectfully requested.

C.) Obviousness Rejections Based on Buxton, Kim and U.S. Patent Publication No. 2004/0010717 (Simec).

Claims 23-24 and 56-57 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Buxton, Kim and Simec. As the asserted references, whether taken alone or in combination, fail to teach or suggest all the limitations of the rejected claims, Applicant respectfully traverses the rejection as hereinafter set forth.

Claims 23, 24, 56, and 57 depend from independent claims 1 and 34. As discussed above, Buxton and Kim fails to teach or suggest all the limitations of amended independent claims 1 and 34. Accordingly, claims 23, 24, 56, and 57 are patentable over Buxton for at least the above-cited reasons. The addition of Simec fails to cure the deficiencies of Buxton with respect to the limitations of claims 1 and 34. As such, withdrawal of the obviousness rejection of dependent claims 23, 24, 56, and 57 is respectfully requested.

D.) Obviousness Rejections Based on Buxton, Kim, and U.S. Patent No. 7,155,674 (Breen).

Claims 93-99, 102-113, 116-120, 135-141 and 144-148 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Buxton, Kim and Breen. Independent claims 93,

107, and 135 are amended to overcome this rejection and to place the application in condition for allowance.

Independent claims 93, 107, and 135 are currently amended to include, among other things, “wherein the distributable content is configured to expire after a predetermined time.” Applicant respectfully submits that the prior art, including Buxton, Kim, and Breen fails to disclose all elements of claims 93, 107, and 135.

Unlike the prior art, the invention of claims 93, 107, and 135 require distributable content that is configured to expire. Buxton fails to disclose the currently amended limitation of claims 93, 107, and 135. Moreover, Kim fails to disclose distributable content that is configured to expire. Similarly, Breen fails to disclose distributable content that is configured to expire. Nothing in Buxton, Kim, and Breen, singularly and in combination teaches or suggests distributable content that is configured to expire. Accordingly, for at least the above reason, the obviousness rejection of independent claims 93, 107, and 135 should be withdrawn.

Dependent claims 94-106, 108-120, and 136-148 further define novel features of the invention of claims 93, 107, and 135, and each depend, either directly or indirectly, from independent claims 93, 107, and 135. Accordingly, for at least the reasons set forth above with respect to independent claims 93, 107, and 135, dependent claims 94-106, 108-120, and 136-148 are believed to be in condition for allowance by virtue of their dependency. See 37 C.F.R. 1.75(c). As such, withdrawal of the obviousness rejection of dependent claims 94-106, 108-120, and 136-148 is respectfully requested.

E.) Obviousness Rejections Based on Buxton, Kim, Breen, and Simec.

Claims 100-101, 114-115 and 142-143 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Buxton, Kim, Breen and Simec. As the asserted references, whether taken

alone or in combination, fail to teach or suggest all the limitations of the rejected claims, Applicant respectfully traverses the rejection as hereinafter set forth.

Claims 100, 101, 114, 115, 142, and 143 depend from independent claims 93, 107, and 135. As discussed above, Buxton, Kim and Breen fail to teach or suggest all the limitations of amended independent claims 93, 107, and 135. Accordingly, claims 100, 101, 114, 115, 142, and 143 are patentable over Buxton, Kim, and Breen for at least the above-cited reasons. The addition of Simec fails to cure the deficiencies of Buxton, Kim, and Breen with respect to the limitations of claims 93, 107, and 135. As such, withdrawal of the obviousness rejection of dependent claims 100, 101, 114, 115, 142, and 143 is respectfully requested.

### **CONCLUSION**

For at least the reasons stated above, the pending claims are now in condition for allowance. Applicant respectfully requests withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned to resolve the same. It is believed that no fee is due, however, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112.

Respectfully submitted,

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/MONPLAISIR HAMILTON/

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